

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

LISA BARBOUNIS,	:	NO. 2:19-cv-05030-JDW
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
THE MIDDLE EAST FORUM,	:	
DANIEL PIPES (individually), and	:	
GREG ROMAN (individually),	:	
Defendants.	:	
	:	
Defendant.	:	

**RESPONSE IN OPPOSITION TO
DEFENDANTS' PETITION FOR ATTORNEY'S FEES**

Plaintiff, Lisa Barbounis hereby Responds and files this Memorandum of Fact and Law in Opposition to Defendants' Petition for Attorney's Fees.

I. PRELIMINARY STATEMENT AND ARGUMENT

Defendants, The Middle East Forum ("MEF"), Daniel Pipes, and Greg Roman (collectively "Defendants") filed a Petition for Attorney's Fees in connection with the Court's November 13, 2020 hearing which stated:

It is FURTHER ORDERED that the Court determines that an award of attorneys' fees for MEF's costs of preparing this Motion and participating in today's hearing is appropriate pursuant to Fed. R. Civ. P. 37. (Document 74).

Defendants' Petition asks for \$9,462.00, which Defendants claim are the costs required to draft a 13 page Motion and attend a hearing that took an hour and thirty-two minutes¹. A review of Defendants' Petition for Attorney's Fees demonstrates that the

¹ The hearing was scheduled to begin at 10:30 A.M., and was called to order at 10:41 A.M. The hearing ended at 12:02 P.M.

fees requested are not reasonable. In an effort that was articulated by Defendant, Daniel Pipes and Defendant, Greg Roman at their depositions, Defendants are using the Court's Order not to recoup attorney's fees but to punish and retaliate against Plaintiff due to Plaintiff, Lisa Barbounis's lawful claims of sexual harassment. Both Defendant, Daniel Pipes and Defendant, Greg Roman diverted their attention away from testimony to taunt counsel for Lisa Barbounis and gloat over the Court's award of attorney's fees in the November 13, 2020 Order. Defendants Petition outlines Defendants' objective to use the Court's Order to rack up as much fees as possible. The following charts Defendants' Request for fees (Each chart documents the fees claimed for each attorney):

Attorney Name	Work Claimed	Hours Claimed	Fees Claimed
Dave Walton	Analyze Issues	1.3	\$442
Dave Walton	Review and Revise	0.9	\$306
Dave Walton	Analyze Issues	1.5	\$510
Dave Walton	Prepare for hearing	1.7	\$578
Dave Walton	Prepare for and attend hearing	2	\$680
Dave Walton	Barbounis contempt hearing	0.5	\$170

Attorney Name	Work Claimed	Hours Claimed	Fees Claimed
Leigh Ann Benson	Draft motion	4.3	\$1,075
Leigh Ann Benson	Revise draft motion	3.1	\$775
Leigh Ann Benson	Attend hearing	1.7	\$425
Leigh Ann Benson	Review and respond to emails	0.3	\$75

Attorney Name	Work Claimed	Hours Claimed	Fees Claimed
J. Tate	Database review	3.6	\$900
J. Tate	Review and revise	0.8	\$200

Attorney Name	Work Claimed	Hours Claimed	Fees Claimed
Jon Cavalier	Prepare for and attend the hearing	3.3	\$1,122

The fees claimed by Defendants are separated for each attorney in the charts above.

First, Defendants are charging Plaintiff so that three (3) attorneys, Dave Walton, Jon Cavalier, and Leigh Ann Benson, could attend the hearing. Only one of the three attorneys, Dave Walton, participated in the hearing. The other two attorneys attended simply to observe. Ms. Benson and Mr. Caviler did not assist Dave Walton. Plaintiff's counsel is not privy to the billing practices between Cozen O'Connor and Defendants, however, Defendants should not be treble-billed so that Cozen O'Connor can send three attorneys to a hearing where two of the attorneys are present simply to watch.

Moreover, Defendants are attempting to bill to Plaintiff charges that cannot be justified by the work product. The hearing took an hour and a half and Defendant, The Middle East Forum was represented by Dave Walton ("Mr. Walton") and Defendant, Greg Roman was represented by Sydney Gold ("Mr. Gold"). Mr. Gold and Mr. Walton's time for the hearing totaled about three (3) hours.

Mr. Gold submitted a bill for two (2) hours and the attorneys from Cozen O'Connor submitted bills for twenty-five (25) hours. The total hours billed are twenty-seven (27) hours and these bills represents work that is far-afield from drafting the thirteen (13) page motion and

attending the hearing. Defendants have bills Plaintiff for the following work that was not related to the drafting of the Motion or attending the hearing:

Analyze Issues	3.3 hours
Review and revise	4.8 hours
Database review	3.6 hours
Prepare for hearing	4.8 hours
Responding to emails	0.3 hours
Total	16.8 hours

Plaintiff objects to the entire bills as unreasonably excessive.

Plaintiff also objects to the bills to the extent that Defendants have not suffered any prejudice as a result of conduct of the Plaintiff. The record demonstrates that Plaintiff and Defendants agreed to use Cornerstone to produce electronic information derived from Plaintiff, Lisa Barbounis's two (2) electronic devices, her cloud based storage accounts, social media accounts, email accounts, and cell phone applications. Through Cornerstone Plaintiff produced well over a hundred thousand responsive documents. The format for this production was dictated by the way in which documents were produced in another case. Plaintiff has no control of the format of production. Defendants received the production and filed a Motion for Contempt. Defendants did not even try to contact Plaintiff to discuss the issues presented in Defendants Motion for Contempt. Plaintiff was not afforded the opportunity to even respond to the issues presented in Defendants' Motion for Contempt. The first time Plaintiff learned that Defendants even had issues with the production of information from Cornerstone was when Defendants filed the Motion for Contempt. There was no discovery violation as Plaintiff had

previously produced to Defendants all other documents in her care, custody, or control other than the electronic discovery. To require Plaintiff to pay a bill that is presented by Defendants as being almost \$10,000 for discovery violations that are predicated upon an agreement by the parties results in an unfair penalization of Plaintiff and unjust fee shifting. Defendant Motion for Contempt has yielded to Defendants all the discoverable information Defendants sought. Defendants efforts in filing the Motion for Contempt were rewarded by the numerous documents Defendants have obtained through its Motion including 578 full text threads, hundreds of audio files, and over 1300 image files. Plaintiff should not be required to pay the cost for Defendants to obtain this information. Plaintiff therefore respectfully requests that the honorable Court reconsider its decision to award attorney's fees to Defendants.

WHEREFORE, Plaintiff requests that the find for Plaintiff and Order that Plaintiff is not responsible for the bills submitted by Defendants. In the alternative Plaintiff requests that Plaintiff only be responsible for the time Defendants spent drafting the motion and for Mr. Walton and Mr. Gold to attend the hearing. The total cost estimated at about \$1,500.00.

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DATED: December 13, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this date that I caused a true and correct copy of Plaintiff's Motion Defendants to be served via ECF.

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DATED: December 13, 2020